

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF WEST VIRGINIA
CLARKSBURG

KRIS S. KISER,

Plaintiff,

v.

CIVIL ACTION NO.: 1:17-cv-174
HONORABLE Irene M. Keeley

INDIANHEAD PIPELINE SERVICES, LLC
and PRECISION PIPELINE, LLC,

Defendants.

ELECTRONICALLY
FILED
Oct 16 2017
U.S. DISTRICT COURT
Northern District of WV

NOTICE OF REMOVAL

COMES NOW, the Defendant, Indianhead Pipeline Services, LLC, by counsel, Wendy E. Greve, and the law firm of Pullin, Fowler, Flanagan, Brown & Poe, PLLC, pursuant to 28 U.S.C. §§ 1331, 1391, 1441 and 1446, and give notice of removal of this action from the Circuit Court of Harrison County, West Virginia, Civil Action Number 17-C-298, to the United States District Court for the Northern District of West Virginia, and in support thereof states as follows:

1. That the Plaintiff Kris Kiser filed his Complaint in the above-captioned civil action in the Circuit Court of Harrison County, West Virginia, on or about September 19, 2017, where it was assigned Civil Action No. 17-C-298. See Complaint in Civil Action No. 17-C-298, attached hereto as **Exhibit 1**.

2. Service upon Defendant was made via the West Virginia Secretary of State on September 26, 2017. See Summons, attached hereto as **Exhibit 2**.

3. In accordance with 28 USC 1446(a), the Defendant states that the only process, pleadings, or orders in this matter are the Summons and Complaint. See Docket, attached hereto as **Exhibit 3**.

4. This Notice of Removal is being filed within (30) days after the Defendant was served with a Complaint which is removable to the United States District Court for the Northern District of West Virginia.

5. According to his Complaint, Plaintiff has asserted two (2) counts against Defendant: (1) Negligence against Defendant Precision Pipeline, LLC and Defendant Indianhead Pipeline Services, LLC; and (2) Deliberate Intent against Defendant Indianhead Pipeline Services, LLC.

6. This Court has diversity jurisdiction over this action under 28 U.S.C. § 1332, and this action is removable to this Court on that basis, as well as 28 U.S.C. § 1441(a). There is complete diversity of citizenship in this action, and the amount in controversy is equal to or greater than \$75,000, exclusive of interest and costs upon information and belief.

(a) With regard to the amount in controversy, Plaintiff does not state a specific amount of damages or agree to cap his damages at an amount less than \$75,000. Plaintiff essentially admits that a jury verdict could exceed \$75,000 as Plaintiff has asserted that he has suffered “loss of capacity to earn an income.” See **Exhibit 1** at ¶ 11. Moreover, Plaintiff will “require future medical care and treatment due to the permanent and lasting effects of his injuries.” See *id.* In addition to the foregoing, Plaintiff is requesting the following damages: (1) pain and suffering; (2) loss of his ability to enjoy life;

(3) serious personal injuries; (4) costs; (5) attorney fees; and (6) such other relief as is just and proper. According to the Complaint, Plaintiff is a citizen and resident of Huntington, Cabell County, West Virginia. Therefore, for purposes of 28 U.S.C. §§1332 and 1441, Plaintiff is domiciled in the State of West Virginia and is a citizen of the State of West Virginia.

(b) Defendant Indian Pipeline Services, LLC is a corporation with its principal place of business is located at 13167 County Highway OO, Chippewa Falls, Wisconsin, 54729.

(c) Defendant Precision Pipeline, LLC is a corporation with its principal place of business is located at 3314 56th Street, Eau Claire, Wisconsin

(d) Therefore, there is complete diversity between Plaintiff and all Defendants.

7. Pursuant to 28 U.S.C. § 1441(a), any civil action brought in a State of which the district courts of the United States have jurisdiction may be removed by the Defendant(s) to the district court of the United States for the district and division where such action is pending.

8. That pursuant to 28 U.S.C. § 1391, venue is proper in the Northern District of West Virginia because a substantial part of the events or omissions giving rise to the claims contained in the Complaint allegedly occurred in this District.

9. Pursuant to 28 U.S.C. § 1446(d), prompt written notice of this Petition for Removal is being provided to Plaintiff, through counsel of record, and to the Clerk of Court for the Circuit Court of Harrison County, West Virginia. A Notification of Removal to the Circuit Court is attached hereto as **Exhibit 4**.

WHEREFORE, Defendant, Indianhead Pipeline Services, LLC, submits that this matter is properly removed from the Circuit Court of Harrison County, West Virginia, to this Court.

Indianhead Pipeline Services, LLC
By Counsel,

/s/ Wendy E. Greve
Wendy E. Greve, WV State Bar No. 6599

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CLARKSBURG

KRIS S. KISER,

Plaintiff,

v.

CIVIL ACTION NO.: 17-C-298
HONORABLE JAMES A. MATISH

INDIANHEAD PIPELINE SERVICES, LLC
and PRECISION PIPELINE, LLC,

Defendants.

CERTIFICATE OF SERVICE

The undersigned counsel for Defendant, Indianhead Pipeline Services, LLC, does hereby certify on this 16th day of October 2017 that a true copy of the foregoing “**NOTICE OF REMOVAL**” was served upon the following counsel of record via U.S. Mail and using the CM/ECF system, which will send notification of such filings to the following EC/CMF participants:

Kenneth P. Hicks, Esquire
Kenneth P. Hicks, L.C.
742 Fourth Avenue
Huntington, WV 25701
Counsel for Plaintiff

/s/ Wendy E. Greve

Wendy E. Greve, WV State Bar No. 6599